

Citizen Charter Review Committee

February 4, 2010

11:30 a.m. – 1:30 p.m.

Leon County Courthouse

Commission Chambers, 5th floor

- I. Call to Order
- II. Invocation and Pledge
- III. Roll Call
- IV. Approval of Minutes of Previous Meeting
 - 1. January 28, 2010 Meeting Minutes
- V. Reports of Chairperson
- VI. Presentations by Invited Guests/Consultant
- VII. Remarks of Interested Citizens
- VIII. Unfinished Business
- IX. New Business
 - 1. Decision Agenda
 - a. Audit Clarification
 - b. Countywide Environmental Standards
 - c. Employment Policy of the County Administrator
 - d. Non-interference Clause
 - e. Petition Threshold/Petition Prohibitions
 - f. CRC Membership/Structure
 - 2. Staff/Consultant Discussion (Pertinent Updates)
 - 3. Member Discussion (Direction to Staff/Consultant)
- IX. Adjournment with Day Fixed for Next Meeting

*The next meeting of the Citizen Charter Review Committee is scheduled for
Thursday, February 11, 2010, 10 a.m.*

I.

CALL TO ORDER

II.

INVOCATION AND PLEDGE

III.

ROLL CALL

IV.

APPROVAL OF MINUTES OF PREVIOUS MEEINTG

**LEON COUNTY
2009-2010 CITIZEN CHARTER
REVIEW COMMITTEE MEETING
JANUARY 28, 2010**

The Leon County 2009-2010 Citizens Charter Review Committee (CRC) met on January 28, 2010, in the Commission Chambers with Committee members Christopher Holley (Chair), Marilyn Wills, Catherine Jones, Chuck Hobbs, David Jacobsen, Donna Harper, Jon Ausman, Lance deHaven-Smith, Larry Simmons, Linda NicholSEN, Ralph Mason, Rick Bateman, and Sue Dick in attendance. Absent were Lester Abberger and Tom Napier. Also attending were County Attorney Herb Thiele, Deputy County Administrator Vincent Long, Assistant County Attorney Patrick Kinni, Facilitator Kurt Spitzer, Special Projects Coordinator Shington Lamy, and Deputy Clerk Rebecca Vause.

I. Call to Order

Chairman Holley Called the Meeting to Order at 5:35 p.m.

II. Invocation and Pledge

The Invocation was provided by Larry Simmons, who then led the Pledge of Allegiance.

III. Roll Call

The Roll was conducted by Shington Lamy who confirmed that a quorum was present.

IV. Approval of Minutes of Previous Meeting (January 21, 2010)

Jon Ausman moved, duly seconded by Rick Bateman, to approve the January 21, 2010 meeting minutes. The motion carried 13-0 (Lester Abberger and Tom Napier absent).

V. Reports of Chairperson

- Commented that at a previous meeting he had suggested that Frank Bruno of Volusia County be invited to speak to the CRC on issues of Board structure and leadership. He noted that these issues had already been addressed by the CRC and a vote taken to not move forward with these topics; therefore, Mr. Bruno's appearance was not necessary.

VI. Presentations by Invited Guests/Consultant

none

VII. Remarks of Interested Citizens

- Sonia Fancher, 3693 Corinth Dr., asked that the Committee take action to prohibit elected officials and staff of local government from serving on future Charter Review Committees and that a seat not be reserved for special interests or leadership of a political party.
- Letha Marshall, via e-mail, expressed support for partisan elections. Note: a copy of Ms. Marshall's comments will be placed in the official record.

VIII. Unfinished Business

I. Issues Agenda

a. Citizen Utility Advisory Board

Kurt Spitzer stated that the CRC would need to provide further direction as to the purpose and objective of the Advisory Board.

Cathy Jones recalled that Commissioners Akinyemi and Proctor brought the concept of an advisory board to the attention of the CRC and offered that county residents who are served by city utilities have no recourse in resolving utility disputes. She added that the proposed Utility Board could also listen to and talk about utility issues, i.e., complaints, renewable energy opportunities and the future of energy for the County.

Rick Bateman offered that the Utility Board, although advisory in nature, would provide a consolidation of voices and give disenfranchised citizens a mechanism to be heard on a larger scale.

Chairman Holley shared that this issue is being debated statewide and questioned whether the Charter is the appropriate place for this issue.

Ralph Mason deemed appropriate as a Charter issue as it would allow citizens an opportunity to decide the need and appropriateness of a Citizens Utility Board.

There was concern expressed by Marilyn Wills that citizens would believe that the Utility Board has more power than it does and Ms. Harper regarding the vagueness of the Committees' charge.

Rick Bateman moved, duly second by Ralph Mason, to direct staff to bring back information, including models from other counties who have utility boards for the CRC's review and discussion.

Lance de-Haven Smith stated that he would support the concept of an advisory board, as Tallahassee's electric rates are a big issue to many residents. He opined that the CRC should be responsive as two County Commissioners asked that the issue be addressed.

Ms. Harper submitted that the Advisory Board should be comprised of individuals who are highly educated and highly trained in the issues they will be considering and making recommendations to the City about.

Ms. Harper offered a friendly amendment that staff be asked to include in its report 1) the charge of the committee, 2) who will make appointments; 3) criteria for serving and 4) the manner, form and substance of the recommendation and 5) to whom those recommendations would go. The friendly amendment was accepted by Mr. Bateman, who clarified that the intent of his motion was to have several models brought back that would address the areas raised by Ms. Harper.

The motion carried 10-3 (Chris Holley, David Jacobsen, and Linda NicholSEN in opposition; Lester Abberger and Tom Napier absent)

b. Campaign Contribution Limitation

Chairman Holley asked County Attorney Thiele to update the Board on this issue. Mr. Thiele asserted that his office maintains its position that campaign contribution limits are impliedly preempted by the Laws of the State of Florida.

Mr. Bateman although understanding of Mr. Thiele's opinion, pointed out that a Sarasota County Circuit Judge has disagreed with that opinion and ruled that limitations could be established and this ruling has not been appealed.

Larry Hobbs stated for the record, that he was vehemently against any further limitation on the rights of citizens, or a group of citizens, to express their opinions about a candidate through donations; as this would be a violation of the first amendment.

County Attorney Thiele responded to inquires from Ms. Wills about the pending Secretary of State case and Mr. Mason who asked for more information about the Alachua County/\$250.00 limit case.

Mr. Bateman asserted that the first amendment does not prohibit the limitation of the amount of contribution and declared that unlimited campaign contributions prohibits the majority of people from getting their voice heard.

Jon Ausman moved, duly seconded by Rick Bateman, to limit campaign contributions to individual candidates to \$250.00

Mr. Hobbs offered that campaign contributions allow the purchase of advertising and other campaign paraphernalia, which in turn provides voters the information they need to make informed decision about a candidate. He added that it is fundamentally wrong to tell an individual how much they can spend or donate in support of a candidate.

Chairman Holley suggested that the Committee should heed the advice of the County Attorney who has advised that state law preempts action on this matter.

The motion carried 8-5 (Sue Dick, Donna Harper, Chuck Hobbs, Chris Holley, Linda NicholSEN in opposition; Lester Abberger and Tom Napier absent).

c. Human Rights Policy

Ralph Mason referenced the establishment of the County's Human Rights Committee and asked that this issue be removed from consideration.

Ralph Mason moved, duly seconded by Rick Bateman, to remove the issue from consideration and allow the County's Human Rights Committee to make recommendation on this issue.

Mr. Ausman voiced opposition to withdrawal of the issue and felt it important to place protections such as people's rights and their ability to have equal housing, jobs, pay, opportunities, etc. in the County Charter. He indicated that he was willing to give voters a choice and not be afraid to move forward in areas like this.

Ms. Harper remarked that the community is very supportive of human rights and the time is right to put it in the County's Charter.

Mr. Mason agreed that the voters would support a human rights amendment; however he believed that the County's Human Rights Committee was better suited to address this issue.

Mr. Bateman asked the status of the Human Rights Committee. Mr. Thiele reported that the Committee has met 3-4 times and their charge is not only related to issues of non discrimination but they are to be a sounding board for all matters of inequality or discrimination. He added that no language has been proposed by the Committee as yet. Vince Long provided that human rights language included in other County Charters was very broad and added that sample language from the Broward and Pinellas County Charters was included in the CRC's packet.

Ms. Dick noted that she was concerned about duplication of efforts by the creation of another advisory board.

Rick Bateman withdrew his second of the motion. The motion was then seconded by David Jacobsen.

A substitute motion was offered by Rick Bateman and duly seconded by Jon Ausman, to add language to the Charter which states: Protection of Human Rights – The County shall establish provisions, for protection of citizen human rights from discrimination based upon religion, political affiliation, creed, race, color, age, gender, disability, sexual orientation, familial status, marital status, or national origin by providing and ensuring equal rights and opportunities for all citizens of Leon County. The motion carried 10-3 (Chris Holley, Ralph Mason, David Jacobsen in opposition; Lester Abberger and Tom Napier absent)

Mr. Mason recommended that Jim VanRiper be invited to discuss this issue with the CRC. No objection was received to Mr. Mason's suggestion and he will contact Mr. VanRiper to schedule a time for him to meet with the Committee.

d. Independent/Advisory CRC

Lance de-Haven Smith indicated that he did not want to spend too much time contemplating this issue, if it is not endorsed by the Committee.

Mr. Spitzer reminded the CRC of its previous actions/discussions on options that are available for consideration.

Ms. Harper offered that she would be unable to support the move to an Independent body under the CRC's current structure; as there is insufficient time allotted for the CRC to develop an issue well enough to be placed directly onto the ballot.

Mr. Bateman agreed that there is insufficient time given to the CRC to consider and recommend changes to the Charter. He opined that, given enough time to research and deliberate issues the CRC should be able, by a super majority vote, to place an issue on the ballot and voiced support for the development of such language.

Ms. Dick shared that she is working with staff on language to begin the charter review process earlier and to address comments and concerns expressed by CRC members on the makeup and charge of the CRC.

Lance de-Haven Smith moved, duly seconded by Jon Ausman, to adopt the "hybrid" approach currently utilized by Lee County which requires: 1) nine of 15 affirmative votes by the CRC to transmit an amendment to the county commission for acceptance or rejection, or 2) an affirmative vote of 12 of 15 members to place an issue directly on the ballot.

Mr. de-Haven Smith acknowledged that this will come back to the Committee with detailed language including committee structure, etc.

Mr. Bateman requested a friendly amendment to include discussion on convening the committee earlier and for a longer period of time. The friendly amendment was accepted by Mr. de-Haven Smith.

Ms. Harper established with Mr. de-Haven Smith that the intent of the motion is for staff to bring back a detailed proposal on the process indicated by the CRC.

The motion, as amended, carried 10-1 (David Jacobsen in opposition; Chuck Hobbs and Ralph Mason out of Chambers; Lester Abberger and Tom Napier absent)

Mr. Spitzer suggested that at the two issues 1) Composition of CRC and 2) Independent/Advisory CRC be merged and agendaed for the meeting on February 4, 2010. The suggestion was agreed to by the Committee.

IX. New Business

Chairman Holley pointed out that the Committee was entering into the Decision Process and that those items agreed to at this point will go to public hearing. He asked for the members' assistance to ensure that the language that is presented at the public hearing is as close as possible to what will be placed on the ballot. However, it was articulated that the Committee is very interested in receiving public input and comment.

Jon Ausman requested that the Committee schedule time at a future meeting to discuss unitary elections.

There was discussion on the appropriateness of Mr. Ausman's request.

Jon Ausman moved, duly seconded by David Jacobsen, to ask the County Attorney to explain what the unitary ballot is and its legality. The motion carried 7-5 (Rick Bateman, Sue Dick, Cathy Jones, Chris Holley and Marilyn Wills in opposition; Lester Abberger, Tom Napier and Chuck Hobbs absent).

County Attorney Thiele explained that the placement of party affiliations on ballots of a non partisan election is statutorily prohibited. He shared that Duval County/Jacksonville has created a unitary system that they acknowledge would be prohibited today; however it was created in 1992 and thus grandfathered in. Mr. Thiele opined that this is not an option for Leon County.

1. Decision Agenda

a. Functional Consolidation of Growth Management

Chairman Holley stated that draft language has not been provided. He asked Vince Long, Deputy County Administrator, to provide background on the topic.

Mr. Long provided a brief overview of the County's functional consolidation efforts. He articulated that although the Charter cannot effectuate a functional consolidation of Growth Management; a non-binding Charter amendment would signal to the community strong support for such an endeavor. He referenced the June 9, 2009 Budget Discussion Item that was provided in the Committee's packet, which exemplifies and articulates the County's efforts in this process. Mr. Long offered that it was within the CRC's authority to consider adoption of uniform countywide environmental ordinances and remarked that the Comprehensive Plan articulates this need. He added that the City's CRC recommended the functional consolidation of Growth Management and that a Memorandum of Understanding was approved by the County Commission on July 14, 2009, which has been forwarded to the City. He concluded that the Committee has an opportunity to do something that would in essence result in a functional consolidated Growth Management through unifying environmental regulations countywide.

Mr. Bateman commended staff for providing this direction and expressed support to give authority to the County Commission to pass countywide regulations related to the environment.

Mr. Bateman moved, duly seconded by Lance de-Haven Smith, to direct staff to come back with language to expand minimal stormwater standards and gives the County Commission authority to pass Countywide environmental ordinances. The motion carried 12-0 (Larry Hobbs, Lester Abberger and Tom Napier absent)

b. Tourist Development Council Structure

Mr. Spitzer summarized the draft language.

Cathy Jones moved, duly seconded by Sue Dick, to accept the draft language as presented and schedule for public hearing. The motion carried 12-0 (Chuck Hobbs, Lester Abberger and Tom Napier absent).

c. Audit Clarification

Chairman Holley shared that he had received a letter from Bob Inzer, Clerk of Court, asking that this issue be deferred until the February 4, 2010 CRC meeting.

Rick Bateman moved, duly seconded by Donna Harper, to table discussion of this issue until the February 4, 2010 CRC Meeting.

Ms. Jones offered a friendly amendment to discuss each constitutional office, their role within the County and the possibility of bringing Constitutional Officers under the County. She opined that this issue warranted discussion especially in light of current fiscal conditions.

Mr. Bateman accepted the friendly amendment. Donna Harper as the seconder of the motion did not accept the friendly amendment.

County Attorney Thiele intervened and advised that the Committee has a motion to continue a matter on the agenda; a substantive issue such as changing the constitutional officer's classification is not germane to the motion to continue the item on the agenda. He stated that a separate motion would need to be made.

A substitute motion was made by Ralph Mason to postpone this issue to the February 4, 2010 CRC meeting. The motion was duly seconded by Jon Ausman. The motion carried 11-1 (Rick Bateman in opposition; Chuck Hobbs, Lester Abberger and Tom Napier absent).

d. Petition Thresholds

Chairman Holley advised that draft language had been provided. He summarized that the Committee had approved thresholds of seven percent countywide and five percent within districts.

Jon Ausman moved, duly seconded by Dave Jacobsen, to accept the draft language as presented and schedule for public hearing.

Mr. Bateman expressed a concern that the language is not repeated in both Ordinance and Citizen Petition Sections of the Charter.

A substitute motion was made by Rick Bateman and duly seconded by Donna Harper, to continue the item to allow time for the County Attorney's Office to draft language which incorporates the new percentages in both Ordinance and Citizen Petition Sections of the Charter. The motion carried 12-0 (Chuck Hobbs, Lester Abberger and Tom Napier absent).

X. OTHER ISSUES

Chairman Holley reviewed agenda items for next week's meeting:

- Countywide Standards (Stormwater and Environmental)
- Hire/fire policy – county administrator
- Non-interference clause
- Clarification of Petition Prohibitions
- Independent/Advisory CRC (hybrid concept)
- Clerk Audit Function
- Revised Petition Threshold Language

Chairman Holley requested that the "timeline" be revised and distributed.

Mr. Ausman announced that he would be unable to attend the February 4 meeting.

Ralph Mason moved, duly seconded by Rick Bateman, to consider amending the by-laws to allow for discussion of the County Constitutional Officers. The motion failed 3-9 (Jon Ausman, Lance de-Haven Smith, Sue Dick, Donna Harper, Chris Holley, Dave Jacobsen, Linda NicholSEN, Larry Simmons, Marilyn Wills in opposition and Chuck Hobbs, Lester Abberger and Tom Napier absent).

XI. Adjournment with Day Fixed for Next Meeting

The next meeting of the Citizen Charter Review Committee is scheduled for Thursday, February 4, 2010 at 11:30 a.m. in the Commission Chambers.

The meeting was adjourned at 7:45 p.m.

LEON COUNTY:

ATTEST:

Christopher Holley, Chairman

Bob Inzer, Clerk of Court

V.

REPORTS OF CHAIRPERSON

VI.

PRESENTATIONS BY INVITED GUESTS/CONSULTANT

VII.

REMARKS OF INTERESTED CITIZENS

VIII.

UNFINISHED BUSINESS

IX.

NEW BUSINESS

IX. (1): Decision Agenda

- a. Audit Clarification**
- b. Countywide Environmental Standards**
- c. Employment Policy of the County Administrator**
- d. Non-interference Clause**
- e. Petition Threshold/Prohibitions**
- f. CRC Membership/Structure**

Leon County Citizen Charter Review Committee

DECISION AGENDA

a. Audit Clarification

ORDINANCE NO. 2010-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING THE HOME RULE CHARTER OF LEON COUNTY, FLORIDA; AMENDING ARTICLE III, ELECTED COUNTY CONSTITUTIONAL OFFICERS; AMENDING SECTION 3.1, PRESERVATION OF CONSTITUTIONAL OFFICES; AMENDING SECTION 3.3, CLERK AUDITOR; PROVIDING FOR A BALLOT QUESTION TO BE POSED TO THE LEON COUNTY ELECTORATE AT THE SPECIAL ELECTION ON _____; PROVIDING FOR THE BALLOT QUESTION FORM; PROVIDING FOR FUTHER AUTHORIZATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Board of County Commissioners of Leon County, Florida,

that:

Section 1. Article III, Section 3.1 of the Home Rule Charter of Leon County, Florida, is hereby amended to read as follows:

Sec. 3.1. Preservation of constitutional offices.

The offices of the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as independently elected constitutional offices, and the status, powers, duties and functions of such offices, shall not be altered by this Home Rule Charter, or any revisions or amendments hereto, except as specifically provided herein in Section 5.2 below. The constitutional officers shall perform their executive and administrative functions as provided by law.

Section 2. Article III, Section 3.3 of the Home Rule Charter of Leon County, Florida, is hereby amended to read as follows:

Sec. 3.3. Clerk auditor.

1 (1) The Leon County Clerk of the Court shall serve as the Auditor to the Commission
2 as specified herein by law. The Clerk as Auditor shall conduct a pre-audit review of all county
3 expenditures prior to disbursement of funds, and the accounts of the County Commission shall
4 be subject to the inspection and examination of the Auditor. Postpayment, operational, financial,
5 or performance audits of County Commission accounts and records may only be performed by
6 the Auditor upon the direction or consent of the County Commission. The Clerk shall employ a
7 Certified Internal Auditor, Certified Public Accountant, or such other person qualified by
8 education or experience in governmental accounting, internal auditing practices and fiscal
9 controls, which shall include at least five (5) years experience in professional accounting,
10 auditing, governmental fiscal administration or related experience, unless the Clerk holds such
11 qualifications. The Board of County Commissioners shall fund the audit function of the Clerk.

12 (2) Audit Committee. There shall be a five member Audit Committee of which two
13 members shall be appointed by the County Commission and three by the Clerk. The Audit
14 Committee shall adopt an annual plan of work for the Auditor and shall oversee the work of the
15 Auditor. The Audit Committee may recommend the Auditor conduct postpayment, operational,
16 financial, or performance audits of County Commission accounts. The Audit Committee
17 members shall be residents of Leon County, none of whom may be an employee or officer of
18 County government, and who have experience as a public accountant, internal auditor, or as a
19 financial manager for a public, private or not for profit institution. The purpose of the
20 Committee is to promote, maintain, and enhance the independence and objectivity of the internal
21 audit function by ensuring broad audit coverage, adequate consideration of audit reports, and
22 appropriate action on recommendations. Clerk shall provide for the organization and duties of

1 the audit committee, including membership terms, voting procedures, officers, sub-committees,
2 meeting schedules and staff support.

3 **Section 3. Ballot Question To Be Presented To Electorate.**

4 The proposed amendments to the Home Rule Charter of Leon County, Florida, shall be
5 presented to the qualified Leon County electorate by placing the question of whether to adopt
6 same on the ballot at the special election to be held on _____.

7 **Section 4. Ballot Question Form.**

8 The question on the ballot shall be substantially in the following form:

9 **AMENDMENT TO HOME RULE CHARTER OF LEON COUNTY, FLORIDA**
10 **AS PROPOSED BY LEON COUNTY ORDINANCE NO. 2010-____**

11 Question

12 _____
13 _____
14 _____
15 _____
16 _____

17
18 Yes for Approval _____

19
20 No for Rejection _____
21

22 **Section 5. Further Authorization.**

23 The Board of County Commissioners of Leon County, Florida, is authorized to adopt all
24 resolutions and take all actions necessary in order for this Charter amendment referendum to be
25 properly placed on the ballot for the special election of _____. Said referendum
26 shall be conducted according to the requirements of law governing referendum elections in the
27 State of Florida.

28 **Section 6. Severability.**

1 If any word, phrase, clause, section or portion of this ordinance shall be held invalid or
2 unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a
3 separate and independent provision and such holding shall not affect the validity of the
4 remaining portions thereof.

5 **Section 7. Effective Date.**

6 This ordinance shall have effect upon becoming law, but shall be of no further force or
7 effect if the proposed Charter amendments are not duly approved at the
8 _____, special election. The amendments to the Home Rule Charter of
9 Leon County, Florida, as proposed by this Ordinance, shall become effective
10 _____, if the Charter amendment is approved by a "yes" vote by a majority
11 of those duly qualified electors voting on the question posed at the _____,
12 referendum.

13 DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon
14 County, Florida, this _____ day of _____, 2010.

15
16 LEON COUNTY, FLORIDA
17

18
19 By: _____
20 Bob Rackleff, Chairman
21 Board of County Commissioners
22

23
24 ATTESTED BY:
25 BOB INZER, CLERK OF THE COURT
26 LEON COUNTY, FLORIDA
27

28
29 By: _____
30 Clerk
31
32

1 APPROVED AS TO FORM:
2 COUNTY ATTORNEY'S OFFICE
3 LEON COUNTY, FLORIDA
4
5

6 By: _____
7 Herbert W. A. Thiele, Esq.
8 County Attorney



Bob Inzer

Clerk of Circuit Court
WWW.CLERK.LEON.FL.US

Clerk of Courts ❖ Clerk of County Commission ❖ Auditor ❖ Treasurer ❖ Recorder ❖ Custodian of County Funds

January 19, 2010

Herbert W. A. Thiele, Esq.
County Attorney
Leon County Courthouse
301 S. Monroe Street
Tallahassee, FL 32301

Dear Herb:

I am in receipt of your memorandum to the Charter Review Committee responding to its request for revised language providing clear and specific authority for the Clerk to audit. I submitted your letter to my auditor for his comment; attached is his response.

I agree with his conclusion that the language fails to accomplish the stated direction from the committee. As I understand the current confusion, it is the inclusion of the four words, "as provided by law" in the authorizing language in the Charter. If these words were removed, then the language would be self-executing and not dependent upon any restrictions that may, in the future, be adopted by the Legislature or court rule. Clearly, if the citizens of Leon County chose to modify the authority, this would not impair their rights.

I believe the easy fix is as stated in the auditor's letter attached; namely, elimination of the phrase, "as provided by law".

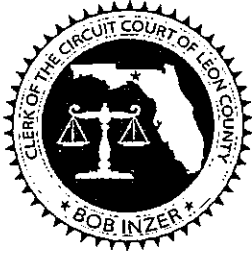
I will be taking this to the Audit Committee for its review this week and, if there are other suggestions it recommends, will forward them at that time. Please call if you have any questions.

Sincerely,

Bob Inzer, Clerk
Leon County Circuit Court

BI/cam
Attachment

cc: John Stott, Chief Deputy Clerk
Gypsy C. Bailey, Esq., Staff Counsel and Director of Courts
Parwez Alam, County Administrator
Shington Lamy, Special Projects Coordinator
Sam Scallan, Auditor, Clerk's Internal Auditing Division
Kurt Spitzer



Bob Inzer

Clerk of Circuit Court
WWW.CLERK.LEON.FL.US

Clerk of Courts ❖ Clerk of County Commission ❖ Auditor ❖ Treasurer ❖ Recorder ❖ Custodian of County Funds

January 11, 2010

The Honorable Bob Inzer
Clerk of the Circuit Court
301 Monroe Street
Tallahassee, FL 32301

SUBJECT: Proposed Revisions to County Charter Language

Dear Mr. Inzer:

I received a copy of the proposed revisions to the County Charter (attached) drafted by the County Attorney. To insure that I understood the direction the County Attorney was given by the Charter Review Committee, I watched excerpts of the video of the December meeting. I believe the committee made two points with regard to the role of the Clerk as Auditor. First, the committee wants to eliminate any confusion regarding the Clerk's authority to audit by eliminating any reference to current state law so that the outcome of any court case or changes in state law would have no affect on the audit function in Leon County. Secondly, you indicated during that meeting and it was the general consensus of the committee that the scope of audit authority currently exercised was working well and the committee wanted it kept that way.

Below is one of the excerpts of language proposed by the County Attorney in response to the direction given at that meeting.

The Clerk as Auditor shall conduct a pre-audit review of all county expenditures prior to disbursement of funds, and the accounts of the County Commission shall be subject to the inspection and examination of the Auditor. Postpayment, operational, financial, or performance audits of County Commission accounts and records may only be performed by the Auditor upon the direction or consent of the County Commission.

I'd like to offer some thoughts. First, my reading of the language limits the scope of audit to expenditures alone eliminating the ability to audit the revenue stream authority you currently have. This language would preclude audits of probation and pre-trial fees for instance, an audit that is included in the current work plan

for this year, unless the County Commission took formal action to request. The second sentence in the proposed language would preclude us from auditing the fuel disbursements, EMS, Bank of America and a number of other audits that we have completed in the past absent receiving direction from the Commission.

I think this is inconsistent with the direction of the committee and clearly limits and impairs the independence of the auditing process.

I believe there is a simple solution. The language in the existing Charter is, "*The Leon County Clerk of the Court shall serve as Auditor to the Commission as provided by law.*" The language that creates the problem is the last four words, *as provided by law*. If these words are stricken from the charter, then any ambiguity is eliminated in the Charter.

I'd like to discuss the above when you have time.

Respectfully,



Samuel S. Scallan, Supervisor
Internal Auditing

cc: John Stott, Chief Deputy Clerk

Leon County Citizen Charter Review Committee

DECISION AGENDA

b. Countywide Environmental Standards

Countywide Environmental Standards

Sec. 1.6. Relation to Municipal Ordinances.

(1) Except as otherwise provided by law or this Charter, municipal ordinances shall prevail over County ordinances to the extent of any conflict within the boundaries of the municipality. To the extent that a county ordinance and a municipal ordinance shall cover the same subject without conflict, then both the municipal ordinance and the county ordinance shall be effective, each being deemed supplemental to the other.

Unified Environmental Regulations

(2) County ordinances establishing standards, procedures, requirements and regulations for the protection of the environment shall prevail over municipal ordinances. Such standards, procedures, requirements and regulations include, but shall not be limited to, tree protection, landscaping, aquifer protection, stormwater, protection of conservation and preservation features, and such other environmental standards as the Board of County Commissioners determines to be necessary for the protection of the public health, safety, and welfare of the citizens throughout Leon County.

Leon County Citizen Charter Review Committee

DECISION AGENDA

c. Employment Policy of the County Administrator

County Administrator – employment/termination policy

Sec. 2.3. Executive Branch.

(1) The County Administrator.

(A) The County Administrator shall be appointed by, ~~and serve at the pleasure of, the Board of County Commissioners~~ an affirmative vote of a majority plus one (1) of the Board of County Commissioners. The County Administrator shall serve at the pleasure of the Board of County Commissioners until such time as the County Administrator shall be removed by a vote for removal of a majority plus one (1) members of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the Administrator was adopted by majority vote of those present and voting. The County Administrator shall be the chief executive officer of the County and all executive responsibilities and powers shall be assigned to, and vested in, the County Administrator. The County Administrator shall exercise all executive authority provided by this Home Rule Charter and all other powers and duties authorized by general or special law.

Leon County Citizen Charter Review Committee

DECISION AGENDA

d. Non-interference Clause

Non-Interference Policy

Sec. 2.3. Executive Branch.

(2) Non-interference by Board of County Commissioners.

Except for the purpose of inquiry and information, members of the Board of County Commissioners are expressly prohibited from interfering with the performance of the duties of any employee of the county government who is under the direct or indirect supervision of the County Administrator or County Attorney by giving said employees instructions or directives. Such action shall constitute malfeasance within the meaning of Article IV, Section 7(a) of the Florida Constitution. However, nothing contained herein shall prevent a County Commissioner from discussing any county policy or program with a citizen or referring a citizen complaint or request for information to the County Administrator or County Attorney.

Leon County Citizen Charter Review Committee

DECISION AGENDA

e. Petition Threshold/Prohibitions

Charter Amendments - Petition Thresholds/Prohibited Subjects

Sec. 4.1. Citizen Initiative.

(1) Right to Initiate.

The electors of Leon County shall have the right to initiate County ordinances in order to establish new ordinances and to amend or repeal existing ordinances, not in conflict with the Florida Constitution, general law or this Charter, upon petition signed by at least ~~ten~~ seven percent ~~(10%)~~ (7%) of the total number of electors qualified to vote in the County reflecting not less than ~~ten~~ five percent ~~(10%)~~ (5%) of the total number of electors qualified to vote within each of the five (5) commission districts. The total number of electors qualified shall mean the total number of electors qualified to vote in the last preceding general election.

(2) Procedure for Petition.

The sponsor of an initiative shall, prior to obtaining any signatures, submit the text of a proposed ordinance to the Supervisor of Elections, with the proposed ballot summary and the form on which signatures will be affixed and obtain a dated receipt therefor. Any such ordinances shall embrace but one (1) subject and matter directly connected therewith. The sponsor shall cause a notice of such submission to be published within fourteen (14) days thereof in a newspaper of general circulation in the County. The allowable period for obtaining signatures on the petition shall be completed not later than one (1) year after initial receipt of the petition by the Supervisor of Elections. The sponsor shall comply with all requirements of general law for political committees, and shall file quarterly reports with the Supervisor of Elections stating, to the best of the sponsor's information and belief, the number of signatures procured. The time and form of such reports may be prescribed by ordinance. When a sufficient

number of signatures is obtained, the sponsor shall thereupon submit signed and dated forms to the Supervisor of Elections, and upon submission, shall pay all fees required by general law. The Supervisor of Elections shall, within sixty (60) days after submission of signatures, verify the signatures thereon, or specify a reason for the invalidity of each rejected signature, if the petition is rejected for insufficiency of the number of valid signatures. If the petition is rejected for insufficiency of the number of signatures, the sponsor shall have an additional thirty (30) days within which to submit additional signatures for verification. The Supervisor of Elections shall, within thirty (30) days of submission of additional signatures, verify the additional signatures. In the event sufficient signatures are still not acquired, the Supervisor of Elections shall declare the petition null and void and none of the signatures may be carried over onto another identical or similar petition.

Sec. 5.2. Home Rule Charter Amendments.

(1) Amendments Proposed by Petition.

(A) The electors of Leon County shall have the right to amend this Home Rule Charter ~~in accordance with Sec. 4.1 of this Charter.~~ upon petition signed by not less than seven percent (7%) of the total number of electors qualified to vote in the County reflecting not less than five percent (5%) of the total number of electors qualified to vote within each of the five (5) commission districts. The total number of electors qualified shall mean the total number of electors qualified to vote in the last preceding general election. The procedures prescribed in subsection 4.1(2) of the Charter shall apply to petitions to amend the Charter that are proposed by citizen initiative.

(B) Each proposed amendment shall embrace but one (1) subject and matter directly connected therewith. Each Charter amendment proposed by petition shall be placed on the ballot by resolution of the Board of County Commissioners for the general election occurring in excess of ninety (90) days from the certification by the Supervisor of Elections that the requisite number of signatures has been verified. If approved by a majority of those electors voting on the amendment at the general election, the amendment shall become effective on the date specified in the amendment, or, if not so specified, on January 1 of the succeeding year.

(C) The power to amend this Charter by initiative shall not extend to provisions related to the County budget, debt obligations, capital improvement programs, salaries of County officers and employees, the assessment or collection of taxes or fees, the zoning of land, or matters inconsistent with the Constitution or general laws of Florida.

Leon County Citizen Charter Review Committee

DECISION AGENDA

f. CRC Membership/Structure

Citizen Charter Review Committee

(2) Amendments and Revisions by Citizen Charter Review Committee.

(A) A Citizen Charter Review Committee shall be appointed by the Board of County Commissioners at ~~least twelve (12) months~~ fifteen (15) months before the general election occurring every eight (8) years thereafter, ~~to be composed and organized in a manner to be determined by the Board of County Commissioners,~~ to review the Home Rule Charter and propose any amendments or revisions which may be advisable for placement on the general election ballot. The Citizen Charter Review Committee shall consist of fifteen (15) electors of the County and shall be funded by the Board of County Commissioners pursuant to a budget set by said Board. Elected officials and their employees, charter officers and senior management employees of local governments in Leon County shall be prohibited from serving on the Citizen Charter Review Committee. Not more than eight of the members of the Citizens Charter Review Committee may be employed in the public sector. When making appointments to the Citizen Charter Review Committee, the Board of County Commissioners shall attempt to include citizens from all segments of the Leon County community, reflecting the different viewpoints, age, gender, life experiences, professions and employment, race and ethnic backgrounds of the citizens in the County, and including consideration of representation of students currently enrolled in institutions of higher education. Nonetheless, each individual appointment shall be based on the competence, expertise and merit of the appointee and nothing in this subsection shall give any person standing to enforce this subsection or challenge any appointment. Public hearings shall be conducted as provided by Section 125.63, Florida Statutes.

(B) No later than ninety (90) days prior to the general election, the Citizen Charter Review Committee shall deliver to the Board of County Commissioners the proposed amendments or revisions, if any, to the Home Rule Charter;. Any proposed Charter amendment or revisions that receives an affirmative vote of three-fifths (3/5) approval of the entire membership of the Citizens Charter Review Committee shall be submitted to the County Commission for its consideration to be placed on to the next general election ballot; and any proposed Charter amendment or revision that receives four-fifths (4/5) approval of the entire membership of the Citizens Charter Review Committee shall be placed directly on to the next general election ballot by the County Commission, in accordance with Section 125.64, Florida Statutes.

(C) If the Citizen Charter Review Committee does not submit any proposed Charter amendments or revisions to the Board of County Commissioners at least ninety (90) days prior to the general election, the Citizen Charter Review Committee shall be automatically dissolved.

IX. (2): Staff/Consultant Discussion

IX. (3): Member Discussion

X.

**ADJOURNMENT WITH DAY FIXED FOR
NEXT MEETING**